

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
VASHAWN VALENTINE,  
Plaintiff,

v.

JOSEPH K. SPANO, Commissioner of  
Westchester County Department of Corrections;  
and NICHOLAS ZUZULO, Police Officer;  
Defendants.  
-----X

**ORDER**

19 CV 2526 (VB)

On October 29, 2019, defendant Joseph K. Spano moved to dismiss the second amended complaint in this Section 1983 action. (Doc. #21). That day, defendant Spano served a copy of the motion and all supporting papers on plaintiff, who is proceeding pro se and in forma pauperis, via regular mail. (See Doc. #21-1).

The Court sua sponte extended plaintiff's time to oppose defendant Spano's motion to February 18, 2020. (Doc. #25).

Plaintiff filed an opposition to defendant Spano's motion on February 5, 2020. (Doc. #26). In his opposition, plaintiff "concedes that dismissal is appropriate as it relates to Commissioner Spano" because "Plaintiff's Amended Complaint does not meet the requirements as set forth in Rule 8 of the FRCP." (Id. at ECF 5). However, plaintiff writes "the remainder of the complaint, specifically the allegations against Police Officer Zuzulo should not be dismissed." (Id.).

The docket reflects that defendant Nicholas Zuzulo, who is identified as a City New Rochelle Police Officer, was purportedly served on December 16, 2019, and that his answer was due January 6, 2020. (Doc. #24).

To date, defendant Zuzulo has not answered, moved, or otherwise responded to the second amended complaint.

Accordingly, it is HEREBY ORDERED:

1. Defendant Spano's motion to dismiss is GRANTED. (Doc. #21).
2. The Court sua sponte extends to March 2, 2020, defendant Zuzulo's time to answer, move, or otherwise respond to the second amended complaint. If Zuzulo does not answer, move, or otherwise respond to the second amended complaint by March 2, 2020, the Court will permit plaintiff to move for default judgment against defendant Zuzulo.

3. Chambers will mail a copy of this Order, as well as a copy of the Certificate of Service on defendant Zuzulo (Doc. #24), to:

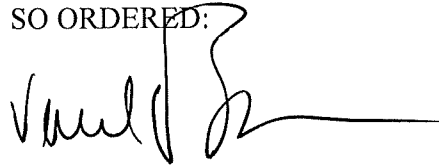
Kathleen Gill, Esq.  
City of New Rochelle Law Department  
515 North Avenue  
New Rochelle, NY 10801

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore in forma pauperis status is denied for the purpose of an appeal. Cf. Coppedge v. United States, 369 U.S. 438, 444–45 (1962).

The Clerk is instructed to terminate the motion (Doc. #21) and terminate from the case defendant Joseph K. Spano, Commissioner of Westchester County Dept. of Corrections. Chambers will mail a copy of this Order to plaintiff at the address on the docket.

Dated: February 6, 2020  
White Plains, NY

SO ORDERED:

A handwritten signature in black ink, appearing to read 'Vincent L. Briccetti', written over a horizontal line.

Vincent L. Briccetti  
United States District Judge